

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA
Plaintiff,

v.

Case No. 12-CR-236

DORSEY CHILDS
Defendant.

ORDER

On February 15, 2013, defendant Dorsey Childs pleaded guilty to distribution of crack cocaine and distribution of heroin. At his June 14, 2013, sentencing hearing, I adopted the facts and guideline calculations set forth in defendant's pre-sentence report ("PSR"). The PSR calculated a base offense level of 26 under U.S.S.G. § 2D1.1 given the amount of crack cocaine and heroin involved. However, the PSR then determined that defendant qualified as a career offender under U.S.S.G. § 4B1.1, setting the base offense level at 32. Following a 3 level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1, and coupled with the criminal history category of VI, the PSR adopted an imprisonment range of 151-188 months. On consideration of the 18 U.S.C. § 3553(a) factors, I imposed a sentence of 96 months.

On January 26, 2015, defendant filed a request for sentence reduction pursuant to 18 U.S.C. § 3582(c)(2). That statute allows the court, in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission, to reduce the term of imprisonment, after considering the factors set forth in § 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission. Defendant

relies on guideline Amendment 782, which generally reduces offense levels in drug trafficking cases by 2 and which has been designated by the Commission for retroactive application. U.S.S.G. § 1B1.10(d). However, defendant is ineligible for a reduction because Amendment 782 does not have the effect of lowering his applicable guideline range, U.S.S.G. § 1B1.10(a)(2)(B), which was calculated under the career offender guideline. See United States v. Thomas, No. 14-3801, 2014 U.S. App. LEXIS 24490, at *3 (8th Cir. Dec. 12, 2014); see also United States v. Forman, 553 F.3d 585, 589-90 (7th Cir. 2009).

THEREFORE, IT IS ORDERED that defendant's motion (R. 40) is **DENIED**.

Dated at Milwaukee, Wisconsin, this 2nd day of February, 2015.

/s Lynn Adelman
LYNN ADELMAN
District Judge